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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,311	02/02/2002	Julie Moriarty	1006.F-5816(MORI 100)	2035

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EXAMINER

KIM, SUN U

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 02/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,311

Applicant(s)

MORIARTY ET AL.

Examiner

John Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/24, 10/9, 10/31</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. The indicated allowability of claims 5 and 16 is withdrawn in view of the newly discovered reference(s) to U.S. Patent No. 3,771,658 (hereinafter referred to as Brumsfield '658). Rejections based on the newly cited reference(s) follow.

1. Claims 23-25 and 28-30 are and rejected under 35 U.S.C. 102(b) as being anticipated by Brumsfield '658. Brumsfield '658 teaches a blood separation method and device comprising a gap (76) between an inner surface (34) i.e. spinner shell located about an axis and an outer surface of stator housing (23) that is concentric with the inner surface (34), an inlet (80, 81, 83) and an outlet (88, 87, 86) communicating with the gap (76), an inner surface (34) carrying a hemodialysis membrane (40) wherein the hemodialysis membrane (40) includes a first surface facing toward the gap (76) and a second surface wherein channels (36) to convey dialysate from inherent dialysate source along the second surface of the hemodialysis membrane (40) to create a concentration gradient across the hemodialysis membrane to transport waste material from blood and a drive mechanism (13, 13a) e.g. rotator drive pulley and shaft key for causing relative movement between the inner and outer surfaces (34, 23) about the axis at a selected surface velocity wherein blood is conveyed into the gap (76) on one side of the hemodialysis membrane (40), causing relative movement between the inner and outer surfaces (34, 23) about the axis at a selected surface velocity and conveying a dialysate along an opposite side of the hemodialysis membrane (40)(see figures 1-3; col. 2, lines 33-57; col. 3, lines 26-46; col. 4, line 46 – col. 5, line 24; col. 6, line 29 – col. 7, line 29).

2. Claims 26-27 and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brumsfield '658 as applied to claims 23 and 28 above, and further in view of U.S. Patent No. 4,790,942 (hereinafter referred to as Shmidt et al). Brumsfield '658 teaches a blood separation

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device as described in above paragraph. Claims 26-27 and 31-32 essentially differ from the method and apparatus of Brumsfield '658 in reciting a hemodialysis membrane on both surfaces. Shmidt et al teach a inner rotating body defining a gap with an outer stationary body wherein the surface of one or both of bodies defining gap being a semi-permeable membrane for ultrafiltration and dialysis wherein the two membranes may be same to increase total effective membrane area or may be different to permit separation of different feed substances (see abstract; figures 1-12; col. 1, lines 10-18; col. 3, line 26 – col. 4, line 1; col. 11, line 26 – col. 12, line 35). It would have been obvious to a person of ordinary skill in the art to modify the apparatus of Brumsfield '658 to add another hemodialysis membrane on other surface for carrying out hemodialysis with increased effective membrane area.

3. Applicant's arguments with respect to claims 23-32 have been considered but are moot in view of the new ground(s) of rejection.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kim whose telephone number is (571) 272-1142. The examiner can normally be reached on weekdays from 7:00 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached on (571) 272-1151. The fax phone number for official response is (703) 872-9306.

When sending a draft amendment by fax, please mark the paper as "DRAFT"; otherwise, mark the paper "OFFICIAL". This will expedite the processing of the paper.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

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A handwritten signature in black ink, appearing to read "John Kim".

John Kim
Primary Examiner
Art Unit 1723

J. Kim
February 12, 2004